



# **NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL**

## **CHAPTER: 1.2.6**

### **TITLE: ALTERNATIVES TO ARREST - DIVERSION**

**EFFECTIVE: 11/26/2017**

**REVISED:**

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#### **PURPOSE**

Elected officials, law enforcement officers, residents, business owners, and service providers in New Orleans want to improve public safety and public order in their neighborhoods, while also reducing future criminal behavior by individuals engaged in low-level offenses. A randomized controlled trial has shown that Law Enforcement Assisted Diversion (LEAD), which diverts some low-level offenses away from jail and prosecution and instead provides individual case management, is more successful at reducing recidivism than arrest and detention.

#### **POLICY STATEMENT**

1. The LEAD team, starting with the arresting officer, will provide an immediate and brief assessment to determine what factors led the individual to engage in misdemeanor criminal activity and offer immediate crisis-related assistance, as needed and available.
2. Over time and utilizing a harm reduction framework, LEAD case managers will connect participants to comprehensive services to address the identified causal factors and reduce the overall harm the individual is causing to himself/herself and the community.
3. The referred individual is considered to be in LEAD if:
  - (a) He/she completes a longer intake and assessment process within 30 days of referral (field screening) and receives a treatment and action plan. At this point, the suspect is no longer at risk for arrest and prosecution on the initial charge. The 30-day window may be extended by the Operations Working Group (OWG) on the recommendation of a LEAD Intake Officer (LIO); and
  - (b) He/she signs a release of information allowing the sharing of information on an as-needed basis among the OWG.
4. The LEAD Program Coordinator will make ongoing, real-time determinations of program capacity during the day/shift when they are accepting referrals (i.e., if three people have been referred in the previous two hours, it is possible that LEAD staff will not be available to conduct another intake, and LEAD referrals may cease until a staff member is available again).
5. The LEAD Program Coordinator shall update Communications Services continuously on changes in program working hours and capacity to accept diversions. Changes shall be

broadcast by Communications Services on all District communications channels as they occur.

## DEFINITIONS

Definitions related to this Chapter include:

**Diversion**—In the context of the LEAD community-based diversion approach, diversion means that a suspect who could have been charged with a misdemeanor, booked into jail or issued a summons, and referred for prosecution will instead be engaged by LEAD program staff (a program coordinator and case management team) working with the City’s Health Department and a local service provider.

**Lead Intake Officer (LIO)**—A New Orleans Police Department officer who is specially trained in LEAD intake and referral procedures. All Police Department members, including LIOs, will be trained on the principles of harm reduction and how to apply these principles when dealing with addiction, mental illness, homelessness, trauma, and poverty, as well as LEAD Operational Guidelines.

**LEAD Program Coordinator**—A person employed by the City of New Orleans and working within the New Orleans Health Department. (He/she will act as the primary outreach and case-manager during the initial pilot phase.) When a behavioral health service provider is selected, he/she will coordinate case managers and peer support specialists working with people in diversion. He/she will also convene and facilitate Operations Working Group meetings and act as liaison between officers and others involved in LEAD to ensure the program is meeting NOPD partner needs.

**LEAD Service Provider**—An outreach and case-management team working for a behavioral health service provider designated by the City of New Orleans to provide immediate individual assessment of a suspect or individual referred by a New Orleans Police officer for diversion.

**LEAD Staff**—The LEAD Program Coordinator, Case Manager, and/or Outreach Staff who works with the Case Manager.

**NOPD Subcommittee**—A group of Police Department personnel who are responsible for developing the Operational Guidelines and for making recommendations to the OWG as LEAD is developed and implemented.

**Operations Working Group (OWG)**—A group of stakeholders, including NOPD's Subcommittee and LEAD staff, responsible for developing and amending the referral and diversion protocols, staffing program participants’ cases per the Protocols, and providing periodic reports on resource utilization and participants’ progress to the Policy Coordinating Committee.

**Policy Coordinating Committee (PCC)**—The signatories of the Memorandum of Understanding who are responsible for reviewing and providing feedback on the referral and diversion protocols for LEAD candidates, reviewing and providing feedback on periodic reports from the OWG, making criminal justice and human services system data available for comparison and evaluative purposes, and providing policy and media guidance and administrative oversight for the LEAD program’s operation and evaluation.

## LEAD PROCESS

6. The primary decision maker initially will be LEAD-trained law enforcement officers (**LEAD Intake Officer or LIO**) on the street and their sergeants.

7. There is no exception to the requirements for use of Body Worn Camera (BWC) or In-Car Camera (ICC) during any stop, arrest, screening and diversion under this Chapter. BWC and ICC, if applicable, shall remain in use from moment of contact through the final mark-up of the incident/item (see: **Chapter 41.3.10 – Body Worn Camera** and **Chapter 41.3.8 – In-Car Camera**).
8. LIOs and sergeants will make a series of decisions (field screening criteria) about the suspects they contact to determine whether or not those suspects should be:
  - (a) Diverted to the LEAD service provider.
  - (b) Issued a summons and released on his/her promise to appear.
  - (c) Processed as an in-custody, physical arrest and booked (affidavit).
9. All field screening of suspects for LEAD suitability shall begin with a complete records check of the suspect by the arresting officer. Attempts at concealment of true identity or total lack of available data in the records system are criteria the arresting officer can use to assess suitability for diversion.
10. The LIO shall utilize the following screening criteria when determining the offense or suspect's eligibility for LEAD:
  - (a) Only **adults** are suitable for LEAD.
  - (b) Only **non-violent misdemeanor** (Municipal) criminal offenses are suitable for LEAD.
  - (c) The individual cannot have been physically combative with the officer at any time during the entire process from the initial stop to the turnover to LEAD service provider.
  - (d) If there is a **victim present who OBJECTS** to the diversion once explained by the officer, it will not take place.
  - (e) If the suspect has a **medical condition** at the time of arrest that requires immediate treatment or detoxification, LEAD cannot take place. Instead, the suspect will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
  - (f) If the suspect is unable to provide **informed consent** (impaired due to drugs or alcohol, as well as mental incapacity) to participate in LEAD, diversion will not take place and the suspect will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
  - (g) If the suspect poses a threat to self or others due to mental illness, it will not take place (see: **Chapter 41.25 – Crisis Intervention**).
  - (h) The suspect displays no interest in being offered services through a community based diversion program rather than being issued a summons, or taken to and booked into jail, or the suspect's words and actions about diversion or the service provider who arrives on scene indicate it would be futile to attempt a diversion strategy.
11. After a LEAD-eligible suspect is identified, and prior to the conclusion of any enforcement action (summons or affidavit), the LIO or sergeant will contact Communications Services who will notify the LEAD Program Coordinator to determine the best location for a hand-off and brief assessment. The suspect will then be turned over to the LEAD service provider for his/her initial screening. (See: **Chapter 1.3.1.1 – Handcuffing and Restraint Devices**.)
12. The LIO will immediately complete a **LEAD Intake Form** on the suspect once determination is made that the suspect meets the criteria for diversion and the LIO's

supervisor concurs. (The LIO will submit the LEAD-Intake Form to the LEAD service provider or LEAD staff for assignment..)

13. The LIO will bring the suspect to the LEAD service provider office or other pre-arranged location appropriate for intake (as determined by the LEAD Program Coordinator).
14. The LEAD staff may determine, at the point of referral or subsequently, that the person is unable or unwilling to follow through with an intake or assessment within the 30-day window allowed and refer the suspect/case back to the arresting officer for a decision about booking and referral for prosecution.
15. The LIO, approving supervisor, or LEAD staff may, at any time in the process, reconsider the suitability of a suspect for LEAD and **STOP THE DIVERSION PROCESS** for any reason and make a recommendation to the OWG that the case be referred for prosecution. A final decision will be made by members of the OWG, including the suspect's case manager, regarding appropriate course of action and immediate next steps.
16. The LIO or sergeant who made the referral (field screening) to LEAD will:
  - (a) Complete the LEAD packet (LEAD Intake Form, FIC, EPR and/or summons as appropriate for the charge and signal) that would be needed to refer the case to the appropriate prosecutor.
  - (b) Forward the LEAD packet for review to the LIO's supervisor.
  - (c) The narrative in the incident report (EPR), if one is written, will clearly state that the suspect has been referred to LEAD. If just a summons, it would indicate in the remarks that it is a LEAD referral.
  - (d) If the LIO determines that the suspect does not meet the threshold criteria for LEAD referral, and therefore charges, books the suspect into jail, and refers the case to the Prosecutor, the LIO may nonetheless refer the case to his/her supervising sergeant for review by the LEAD staff with a request to override the exclusion for a specific reason, within 21 days.
17. LEAD program assessments will take place monthly in the first six months of operation under the pilot/development program and quarterly thereafter until the program is declared out of the pilot phase by the PCC. During this period, changes to this Chapter shall be made by General Order after approval by the OWG.